

# **EXHIBIT C**

WILLIAM F. FEENEY  
January 10, 2005

Page 1

1 UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF MASSACHUSETTS  
3 C.A. NO: 04CV10746JLT  
4

5 \* \* \* \* \*

6 IVAN SANTIAGO,

7 Plaintiff

8 vs.

9 WILLIAM J. FEENEY, MARCUS

10 EDDINGS, AND THE CITY OF BOSTON,

11 Defendants

12 \* \* \* \* \*

13  
14 DEPOSITION OF WILLIAM F. FEENEY

15 HRONES & GARRITY

16 Lewis Wharf Bay, Suite 232

17 Boston, Massachusetts

18 January 10, 2005 10:05 a.m.  
19  
20  
21

22 Maryellen Coughlin

23 Registered Professional Reporter  
24

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APPEARANCES:

Representing the Plaintiff:

HRONES & GARRITY

Lewis Wharf Bay, Suite 232  
Boston, Massachusetts 02110

BY: Stephen Hrones, Esq.  
(617) 227-4019

Representing the Defendants:

City of Boston

Law Department

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WITNESS: WILLIAM F. FEENEY

EXAMINATION:  
MR. HRONES

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EXHIBITS FOR IDENTIFICATION:

No.	Description	Page
13	None	

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PROCEEDINGS

MR. HRONES: The usual  
stipulations?

MR. COX: Yes.

MR. HRONES: All objections saved  
until the time of trial except motions to strike.

MR. COX: And form.

MR. HRONES: And form. Does he  
want to read and sign?

MR. COX: Yes.

MR. HRONES: Waive the notary?

MR. COX: Correct. Can we have 45  
days?

MR. HRONES: Fine.

WILLIAM F. FEENEY,  
having been first duly sworn, was examined  
and testified as follows:

EXAMINATION

BY MR. HRONES:

Q. What is your name, please?

A. William J. Feeney.

Page 5

Q. Where do you live?

A. Excuse me.

Q. Where do you live?

MR. COX: Well, home address is --  
Q. No, the town or -- do you live in  
the City of Boston?

A. No, I don't.

MR. COX: Business address.

Q. Okay. What's your profession?

A. I'm a police officer and a sergeant  
detective.

Q. And how long have you been a police  
officer?

A. A little over 16 years.

Q. And when were you born?

A. 3/26/1958.

Q. And where were you born?

A. In Boston.

Q. Where did you go to high school?

A. Charlestown High.

Q. You graduated?

A. I did.

Q. And what did you do upon  
graduation?

2 (Pages 2 to 5)

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<p style="text-align: right;">Page 14</p> <p>1 reports because they were not aware of that one 2 paragraph down at the bottom of the rule and 3 regulation. 4 Q. Are they now being put in all 5 police reports, as far as you know? 6 A. As far as I know, yes. With 7 respect to my squad. I can't say what the rest 8 of the drug unit is doing. 9 Q. And you head up a squad? 10 A. I do. 11 Q. Of how many men? 12 A. One detective and four officers. 13 Q. And did you inform them all very 14 clearly that they had to put it in the police 15 report? 16 A. After this incident, I informed my 17 old squad, and when I took over as the new boss 18 in District 13, I informed them also. 19 Q. And who's your boss now? 20 A. The Lieutenant detective in charge 21 of the drug unit, Stephen Meade. 22 Q. Were you involved in a search on 23 Cheney Street on March 20th of 2003? 24 A. Yes, I was.</p>	<p style="text-align: right;">Page 15</p> <p>1 Q. In what capacity? 2 A. I was the supervisor in charge. 3 Q. Did you head a drug unit at that 4 point? 5 A. I was in charge of one of the two 6 squads at Area B-2 at that time, yes. 7 Q. And were both squads involved in 8 that? 9 A. Members of both squads were 10 involved, yes. 11 Q. But you were in charge? 12 A. That's correct. 13 Q. And why is that, as opposed to the 14 person that was the head of the other squad? 15 A. He was unavailable at the time. 16 Q. What was his name? 17 A. Sergeant Detective Linskey. 18 Q. So he wasn't in on that search? 19 A. No, he wasn't. 20 Q. Even though he was listed as being 21 in on the search? 22 A. I don't know if he was listed as 23 being on the search. I know that his name did 24 appear on one piece of paper, which is common</p>
<p style="text-align: right;">Page 16</p> <p>1 because we prepare certain documents with 2 everybody's name on them when we're doing joint 3 investigations or joint search warrants, and it 4 appears that his name wasn't taken off it. 5 Q. And what document was his name on? 6 A. It's what we call a white sheet 7 which documents all the individuals present as 8 well as any drugs that are seized and any 9 defendants that are arrested. 10 Q. His name was on that white sheet? 11 A. I believe so, yes. 12 Q. Now, were you involved in the 13 investigation leading up to the search? 14 A. No, I wasn't. 15 Q. Who conducted that? 16 A. The applicant on the search warrant 17 was Officer Paul Quinn. 18 Q. And he was within your unit or the 19 other unit? 20 A. He was in the other squad of B-2. 21 Q. So the other squad did most of the 22 preparatory work? 23 A. That's correct. 24 Q. But you were present when the entry</p>	<p style="text-align: right;">Page 17</p> <p>1 was made? 2 A. That's correct. 3 Q. And where did you enter the 4 apartment? 5 A. We all entered in through the same 6 door, the front door of the apartment. 7 Q. Everyone came in the front? 8 A. That's correct. 9 Q. Didn't someone go around to the 10 back? 11 A. We, as a group, made an entry. We 12 came in through the back of the building, and we 13 entered in through the rear common hallway door 14 in the back of the building which then brought us 15 up to the front door of the apartment. 16 Q. Was it a surprise entry? 17 A. No, they saw us coming. We were 18 making our way into the common hallway. 19 Q. Did you hear anyone yell out? 20 A. I heard some yelling coming. I 21 couldn't distinguish what it was, but somebody 22 further on up the line stated that they're 23 yelling were coming, the police are coming, 50 is 24 coming.</p>

5 (Pages 14 to 17)

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<p style="text-align: right;">Page 18</p> <p>1 Q. What does 50 mean?</p> <p>2 A. 50 is street slang for police.</p> <p>3 Q. By people on the street?</p> <p>4 A. That's correct.</p> <p>5 Q. Do you know the origins of that,</p> <p>6 why they say 50?</p> <p>7 A. Some people I've talked to said it</p> <p>8 goes back to the old days of the TV show Hawaii</p> <p>9 50.</p> <p>10 Q. What did you do when you went in</p> <p>11 the apartment?</p> <p>12 A. As I went into the apartment, other</p> <p>13 officers were in there ahead of me. They started</p> <p>14 sweeping the apartment for individuals in the</p> <p>15 apartment. I observed one individual seated on</p> <p>16 the couch in the living room. There was another</p> <p>17 one that was just starting to exit from a</p> <p>18 doorway, which appeared to be a bedroom right off</p> <p>19 the living room, and then there was a female</p> <p>20 which was -- I believe she was either in the</p> <p>21 kitchen or right near the kitchen, the hallway,</p> <p>22 and where there was a small juvenile child that</p> <p>23 was also in the apartment.</p> <p>24 Q. Who was the subject of the search</p>	<p style="text-align: right;">Page 19</p> <p>1 warrant?</p> <p>2 A. Rolando Lugo.</p> <p>3 Q. Was he in there?</p> <p>4 A. Yes, he was.</p> <p>5 Q. Did the officers know who he was</p> <p>6 when they entered?</p> <p>7 A. Officer Quinn knew who he was, yes.</p> <p>8 Q. Had he made a buy from him himself?</p> <p>9 A. I'm not familiar with the</p> <p>10 circumstances surrounding the investigation.</p> <p>11 Q. So what did you do?</p> <p>12 A. As we do in all search warrants we</p> <p>13 had everybody brought into the living room till</p> <p>14 we made sure everybody was secured.</p> <p>15 Q. I'm not interested in all search</p> <p>16 warrants. I'm saying in this case.</p> <p>17 A. Everybody was brought into the</p> <p>18 living room.</p> <p>19 Q. By you?</p> <p>20 A. No, by anybody that found an</p> <p>21 individual in the apartment.</p> <p>22 Q. But what did you do specifically?</p> <p>23 A. I just stood there at the time</p> <p>24 because I had nothing to do, except supervise.</p>
<p style="text-align: right;">Page 20</p> <p>1 Q. And did you have any conversation</p> <p>2 with the woman?</p> <p>3 A. No.</p> <p>4 Q. Was she searched?</p> <p>5 A. She was searched, yes.</p> <p>6 Q. By whom?</p> <p>7 A. A female officer.</p> <p>8 Q. And what type of search?</p> <p>9 A. When the female officer came to the</p> <p>10 apartment, I just asked that she search her. She</p> <p>11 took her into another room and searched her.</p> <p>12 Q. Was it a strip search?</p> <p>13 A. I wasn't in there. I don't know.</p> <p>14 Q. Well, didn't you ask her whether it</p> <p>15 was?</p> <p>16 A. I asked her to search her. She</p> <p>17 came back and told me she didn't have anything on</p> <p>18 her. I didn't ask whether she strip searched her</p> <p>19 or whether she just patted her down.</p> <p>20 Q. But if she had stripped searched</p> <p>21 her, you would have had to put that in the</p> <p>22 report?</p> <p>23 A. That's correct.</p> <p>24 Q. So now you ask the nature of the</p>	<p style="text-align: right;">Page 21</p> <p>1 search, don't you, when you have a matron search</p> <p>2 a female? Don't you inquire as to the nature of</p> <p>3 the search?</p> <p>4 A. No.</p> <p>5 Q. Because you would have to put that</p> <p>6 in your report as the supervisor.</p> <p>7 A. Well, if I told her to strip search</p> <p>8 her, then I'd know it was a strip search. I just</p> <p>9 asked her to search her, that's all I asked her</p> <p>10 to do.</p> <p>11 Q. And so you assumed she didn't strip</p> <p>12 search?</p> <p>13 A. I assumed she didn't, no.</p> <p>14 Q. Because if you want a strip search</p> <p>15 you specifically indicate that?</p> <p>16 A. I would have indicated it to her,</p> <p>17 yes.</p> <p>18 Q. What about Lugo, was he searched?</p> <p>19 A. Yes, he was.</p> <p>20 Q. Initially what type of search was</p> <p>21 done of him?</p> <p>22 A. Initially he had retrieved drugs</p> <p>23 from the back of his pants area, from between his</p> <p>24 buttocks.</p>

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<p style="text-align: right;">Page 30</p> <p>1 warrant says we can search everyone in the 2 apartment that gives you authority to search 3 anybody in the apartment without having any 4 specific knowledge of involvement by that person? 5 A. That's what the past practice has 6 been, yes. 7 Q. And it's the present practice 8 today, too? 9 A. Unless -- I mean -- again, I can't 10 remember reading a -- 11 Q. Okay. Let's say you go into an 12 apartment, and you're after a, you know, one 13 person who is an alleged drug dealer, and you see 14 another adult you know nothing about, just 15 sitting in the apartment, it's your position that 16 you have the authority to search that person to 17 the extent that you go in their pockets? 18 A. If the warrant indicates that we 19 can search any and all persons present, yes. 20 Q. And you don't need further probable 21 cause? Once that warrant says you can search 22 everyone, you don't have to have any additional 23 probable cause? 24 A. Well, based on the affidavit that</p>	<p style="text-align: right;">Page 31</p> <p>1 accompanies the application for the search 2 warrant, having a neutral and detached party, be 3 it either a clerk magistrate or a judge, reading 4 that application and reading the accompanying 5 affidavit, if they choose to decide that there's 6 probable cause to search any and all persons 7 present that are in the apartment when we execute 8 the warrant, then we feel that they've authorized 9 us to search them. 10 Q. And that's almost invariably the 11 case when you get a warrant for the search of an 12 apartment, that the magistrate gives you 13 authority to search any and all persons there, is 14 that the case? 15 A. No, some don't. 16 Q. But most of them do, don't they? 17 A. I would say maybe a good percentage 18 of them do. 19 Q. Well, do you ask for that authority 20 or the magistrate just checks that off if he 21 wants? 22 A. Sometimes the officers will request 23 it. Sometimes he'll ask the officer if they want 24 to search any and all persons present.</p>
<p style="text-align: right;">Page 32</p> <p>1 Q. Now, what about a strip search, do 2 you believe that warrant gives you authority to 3 strip search anyone who's in the apartment, 4 regardless of whether you have any basis to 5 believe they're involved in the drug dealing? 6 A. Well, again, it depends on the 7 circumstances there. I mean, in this particular 8 case, Mr. Lugo had drugs secreted down the back 9 of his pants, in between the cheek of his 10 buttocks. It wouldn't be uncommon for somebody 11 else that was involved in it to have drugs 12 secreted in the same place. 13 Q. But my question was, without any 14 other factors coming into play as to the specific 15 evidence, do you believe that that search warrant 16 that says search any and all people authorizes a 17 strip search, apart from any other factors? 18 A. It's taken on a case-by-case 19 individual basis. 20 Q. But it says, does it not, search 21 any and all persons, so you're saying that 22 doesn't give you authority to strip search 23 everyone in the apartment without having more, or 24 do you think that gives you authority to strip</p>	<p style="text-align: right;">Page 33</p> <p>1 search everybody? 2 A. Well, it's kind of a two-part 3 question. 4 Q. Okay, let me make it clear. Is it 5 your position that a warrant that says you can 6 search any and all persons found in the apartment 7 gives you authority, if you want, to strip search 8 anyone in that apartment? 9 A. No. 10 Q. So you believe as to strip search, 11 as opposed to an ordinary search, putting your 12 hands in a pocket, you need something more than 13 the warrant authorizing a search of everybody? 14 A. Again, it's on a case-by-case 15 basis, depending upon how the officers feel after 16 talking to the individual that they're searching, 17 as to whether we strip search them or not. 18 Q. But my question was once again, is 19 it your position that a search warrant that 20 allows you to search any and all persons allows 21 you to strip search anyone there if you want, 22 without any other factors? 23 A. No. 24 Q. It doesn't?</p>

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<p style="text-align: right;">Page 34</p> <p>1 A. No.</p> <p>2 Q. So you need something else in order</p> <p>3 to do a strip search?</p> <p>4 A. That's correct.</p> <p>5 Q. And why do you say that?</p> <p>6 A. Again --</p> <p>7 Q. Why do you say you need something</p> <p>8 more?</p> <p>9 A. Well, a strip search is certainly</p> <p>10 more of an intrusive action towards somebody.</p> <p>11 And, again, if we have a search warrant that says</p> <p>12 any and all persons present, we usually search</p> <p>13 any and all persons present. We also have a</p> <p>14 conversation with the individuals. If the</p> <p>15 officer feels that they may be concealing</p> <p>16 something else on them that they can't detect</p> <p>17 through going through their pockets, then a strip</p> <p>18 search will be done.</p> <p>19 Q. Did you authorize a strip search in</p> <p>20 this case?</p> <p>21 A. I told Officer Eddings to take</p> <p>22 Mr. Santiago into the bathroom and search him.</p> <p>23 Q. Did you intend that he do a strip</p> <p>24 search?</p>	<p style="text-align: right;">Page 35</p> <p>1 A. I thought he was going to, yes.</p> <p>2 Q. And what was the basis for your</p> <p>3 ordering him to do a strip search?</p> <p>4 A. Again, we found drugs in the</p> <p>5 apartment. We found drugs on the person,</p> <p>6 Mr. Lugo, concealed in an area that wouldn't be</p> <p>7 detected normally by doing a regular search.</p> <p>8 Q. Did you have any evidence, other</p> <p>9 than what you just mentioned, to suggest Santiago</p> <p>10 was involved in drug dealing?</p> <p>11 A. I didn't know at that time. I</p> <p>12 hadn't read the affidavit, as I said. The only</p> <p>13 one that was specifically named in the warrant</p> <p>14 was Mr. Lugo.</p> <p>15 Q. And you've read it since, haven't</p> <p>16 you?</p> <p>17 A. The affidavit or the application?</p> <p>18 Q. Yes.</p> <p>19 A. No, I haven't read the application,</p> <p>20 no.</p> <p>21 Q. But the affidavit you've read?</p> <p>22 A. The affidavit, no, I haven't.</p> <p>23 Q. So you authorized a strip search</p> <p>24 solely on the basis that Lugo had said I have</p>
<p style="text-align: right;">Page 36</p> <p>1 stuff in my ass and took it out, is that right?</p> <p>2 A. I felt that Santiago could have</p> <p>3 drugs secreted somewhere on his body that</p> <p>4 wouldn't be detected by a normal search.</p> <p>5 Q. But you certainly didn't have</p> <p>6 probable cause to believe he had drugs secreted</p> <p>7 in a way that only a strip search would reveal</p> <p>8 them, did you?</p> <p>9 A. Well, we had probable cause to</p> <p>10 search any and all persons present on the</p> <p>11 premises when we entered.</p> <p>12 Q. I'm saying this specific</p> <p>13 individual. You had probable cause to enter the</p> <p>14 apartment, right --</p> <p>15 A. That's right.</p> <p>16 Q. -- to search for drugs. My</p> <p>17 question is, you didn't have specific probable</p> <p>18 cause to believe that Santiago had drugs secreted</p> <p>19 in such a way that you had to do a strip search,</p> <p>20 did you?</p> <p>21 A. We didn't have any firsthand</p> <p>22 knowledge of it, no.</p> <p>23 Q. But you had a suspicion that he</p> <p>24 might because the other guy had it?</p>	<p style="text-align: right;">Page 37</p> <p>1 A. I felt there was a good probability</p> <p>2 he did, yes.</p> <p>3 Q. Why did you figure there was a good</p> <p>4 probability that Santiago had it up his rear end</p> <p>5 if Lugo did?</p> <p>6 A. A lot of times, and not every time,</p> <p>7 but a lot of times when we go into these</p> <p>8 locations there's more than one person that's in</p> <p>9 the apartment that's involved in the</p> <p>10 distribution, involved in the sale of drugs from</p> <p>11 those locations or they have other people holding</p> <p>12 the drugs for them.</p> <p>13 Q. Well, do you believe that a strip</p> <p>14 search is an extreme invasion of a person's</p> <p>15 privacy?</p> <p>16 A. It is to a certain extent an</p> <p>17 invasion of privacy, yes.</p> <p>18 Q. Now, were you present when the</p> <p>19 search was going on in the bathroom?</p> <p>20 A. I was present in the apartment.</p> <p>21 Q. Were you standing outside the door?</p> <p>22 A. No, I wasn't.</p> <p>23 Q. Was there another officer standing</p> <p>24 outside the door?</p>

10 (Pages 34 to 37)

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